SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. PHAEDRA F. PERRY-BOND PART 35
Justice

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WILLIAM MATTHEW HAWK, JOSE DALBY CONTRERAS REYES,

Plaintiff,

- v -

SALVADOR CATRAIN CALDERON,

Defendant.

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INDEX NO. 652981/2025

MOTION DATE 06/04/2025

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion Seq. 001) 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15 and (Motion Seq. 002) 18, 19, 20, were read on Plaintiff's motion seeking (i) leave to effect alternate service on Defendant Salvador Catráin Calderón pursuant to CPLR 308(5), and (ii) an extension of time to serve the summons and amended verified complaint pursuant to CPLR 306-b.

Upon the foregoing documents, Plaintiff's motion for leave to effect alternative service pursuant to CPLR 308(5) is granted.

Procedural History

Plaintiffs William Matthew Hawk and José Dalby Contreras Reyes move by Notice of Motion (NYSCEF Doc No. 3) for an order pursuant to CPLR 308(5) authorizing alternate service of the summons and complaint upon Defendant Salvador Catráin Calderón by email to two known addresses and by international courier to his law office in Santo Domingo, Dominican Republic.

In support, Plaintiffs submit the affidavit of William Matthew Hawk (NYSCEF Doc No. 4); exhibits documenting unsuccessful service attempts in New York, Florida, and the Dominican Republic (NYSCEF Doc Nos. 5, 10); a memorandum of law (NYSCEF Doc No. 7); the Request for Judicial Intervention and Commercial Division Addendum (NYSCEF Doc Nos. 8–9); a letter correcting exhibits (NYSCEF Doc No. 11); and an affidavit of service of the motion papers

(NYSCEF Doc No. 12) with supporting exhibits (NYSCEF Doc No. 13). Plaintiffs further notified the Court that the motion was fully submitted and unopposed (NYSCEF Doc No. 15).

Discussion

Plaintiffs William Matthew Hawk and José Dalby Contreras Reyes move for (1) authorization to serve Defendant by alternate means and (2) an extension of time to complete such service.

Alternate Service (CPLR 308[5]):

CPLR 308(5) authorizes the Court to direct service "in such manner as the court, upon motion without notice, directs, if service is impracticable" under CPLR 308(1), (2), or (4). Impracticability does not mean impossibility; rather, it requires a showing that diligent efforts at traditional methods have failed (*DeCarvalhosa v. Adler*, 298 A.D.2d 293 [1st Dep't 2002]; *Franklin v. Winard*, 189 A.D.2d 717 [1st Dep't 1993]).

As set forth in the supporting affidavits, Plaintiffs made diligent but unsuccessful attempts to personally serve Defendant at his known New York, Florida, and Dominican Republic addresses. Defendant personally refused service in Santo Domingo, stating it "must come through the courts." (NYSCEF Doc Nos. 4, 5, 10.) The proposed alternate methods—service by email to Defendant's two active addresses and by international courier to his Santo Domingo law office—are reasonably calculated to provide actual notice, satisfying due process under *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950). Accordingly, CPLR 308(5) relief is warranted.

Extension of Time (CPLR 306-b):

Plaintiffs commenced this action on May 16, 2025, requiring service by September 13, 2025. Their multiple diligent efforts, coupled with Defendant's evasive conduct and the pending 308(5) application, establish both "good cause" and "interest of justice" under *Leader v. Maroney, Ponzini & Spencer*, 97 N.Y.2d 95 (2001). Extending the time for service ensures that effective service can be completed under the authorized alternate method.

The proposed alternative is also consistent with due process, which requires notice "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action" (*Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 [1950]). Courts have authorized electronic and other modern forms of service where defendants evade traditional means (*see Baidoo v. Blood-Dzraku*, 48 Misc. 3d 309, 311 [Sup. Ct., N.Y. County 2015] [permitting service by Facebook]; *Fontanez v. PV Holding Corp.*, 182 A.D.3d 423 [1st Dep't 2020] [alternate service upheld where defendant's address was uncertain and insurer received notice]; *Liebeskind v. Liebeskind,* 86 A.D.2d 207, 213 [1st Dep't 1982][1] [courts should adopt a flexible approach to ensure due process]).

Plaintiffs have demonstrated that Defendant actively uses the email addresses identified, and that courier service to his law office is reliable and previously attempted. Together, these methods are reasonably calculated to provide actual notice. As courts have emphasized, "[t]he statute was designed to be flexible enough to meet any new situation … so long as the method chosen is reasonably calculated to give notice" (*see Liebeskind*, 86 A.D.2d at 213).

Accordingly, it is hereby

ORDERED that as to Motion Seq. 001, request for alternate Service: Plaintiffs' motion pursuant to CPLR 308(5) is granted. Service shall be deemed good and sufficient if, within 120 days of this Order, Plaintiffs serve Defendant Salvador Catráin Calderón by:

(a) emailing the summons and complaint to scatrain@catrainyvega.com.do and salvadorcatrain@icloud.com; and

(b) sending copies by international courier (e.g., FedEx or DHL) to Defendant's law office at Torre Empresarial AIRD, Avenida Sarasota No. 20, Apt. 4-Noroeste, La Julia, Santo Domingo, Dominican Republic; and it is further

ORDERED that as to Motion Seq. 002, request for extension of time: Plaintiffs' motion pursuant to CPLR 306-b is granted, and Plaintiffs' time to serve Defendant is extended for an additional 120 days from the date of this Order; and it is further

[1] (*Liebeskind v Liebeskind*, 86 AD2d 207 [1st Dept 1982])

ORDERED that Plaintiffs shall file affidavits of service with proof of transmission and courier delivery confirmation within ten (10) days after service is completed; and it is further

ORDERED that the Clerk shall mark Motion Sequences 001 and 002 disposed.

This constitutes the decision of the Court.

10/20/2025
DATE

PHAEDRA F. PERRY-BOND, J.S.C.

CHECK ONE:		CASE DISPOSED			X	NON-FINAL DISPOSITION	
	X	GRANTED		DENIED		GRANTED IN PART	OTHER
APPLICATION:		SETTLE ORDER				SUBMIT ORDER	
CHECK IF APPROPRIATE:		INCLUDES TRANSFER/REASSIGN				FIDUCIARY APPOINTMENT	REFERENCE